



August 8, 2018

VIA E-FILING

The Honorable Richard J. Andrews
United States District Court
District of Delaware
J. Caleb Boggs Federal Building
844 N. King Street, Unit 9, Room 6325
Wilmington, DE 19801-3555

Re: InvestPic, LLC v. Algorithmics (US) Inc. (C.A. No. 10-cv-01028-RGA)

Dear Judge Andrews:

The parties provide this response to the Court's Oral Order dated August 6, 2018 directing them to file a status letter within 3 days of the Order.

Since the parties' November 1, 2017 status letter to the Court (D.I. 394), the following activities have taken place:

1. Concurrent Federal Circuit Appeal.

The '291 patent is currently the subject of Appeal No. 2017-2081 at the Federal Circuit. On May 15, 2018, the Federal Circuit issued an Opinion and Judgment confirming the decision by Judge Kinkeade of the Northern District of Texas that found the original claims of the '291 patent invalid under 35 U.S.C. § 101. Ex. A.

On June 14, 2018, InvestPic filed a petition for panel rehearing or rehearing en banc. The petition was granted in part and denied in part on August 2, 2018. See Exs. B and C. The previous precedential opinion that issued on May 15, 2018 was withdrawn and replaced with a modified precedential opinion, issued August 2, 2018, that again confirmed Judge Kinkeade's decision finding the original claims of the '291 patent invalid under 35 U.S.C. § 101, but also further declared that the claims of the reexamination certificates, which had issued during the original appeal briefing, were also invalid under section 101. Ex. D.

In sum, the Federal Circuit has now found that all of the patent claims asserted in InvestPic, LLC v. Algorithmics (US) Inc., (C.A. No. 10-cv-01028-RGA) are invalid under Section 101, which ruling may be subject to a further request for *en banc* review or filing a petition for certiorari.

Respectfully submitted,

/s/ Brian E. Farnan

Brian E. Farnan

cc: Counsel of Record (via E-Filing)